

5/24/11

Dear Clerk Davis:

At its April 14th 2011 meeting, the Board of Directors of the Referees Association of Michigan considered the proposed amendments to MCR 3.911 and MCR 3.915. While the Board voted to table a vote on the amendments to MCR 3.911 due to concerns regarding scheduling of trials; the Board unanimously voted to support the amendments to MCR 3.915.

In its 2009 Report on the Legal Representation for Parents in Child Welfare Proceedings, the American Bar Association's Center on Children and the Law included amongst its ten recommendations that "Michigan should establish a Rule of Court requiring appointment of counsel before the first court hearing for all parents, including non-respondent parents." This recommendation, as well as other recommendations included within the study, was based both on the 14th Amendment protection of parents' fundamental liberty interest in the care and custody of their children, as well as a growing body of research clearly demonstrating that quality representation of parents improves outcomes for children.

The Preliminary Hearing is a, if not **the**, most critical stage of a child welfare proceeding. It is the stage at which most children are removed and where parents first encounter the judicial system. It is a setting in which the majority of parents who come before the courts lack not only the means with which to hire an attorney, but the education and ability to fully understand the proceedings and to articulate the facts necessary for the judge or referee to make an informed decision on whether or not to remove a child from the parent's custody. It is a stage of the proceedings that can have enormous consequences for both parents and children as the initial decision to authorize a petition or to remove a child sets the stage for what all too often leads to a termination of the parent-child relationship.

While many counties appoint attorneys for respondents at the preliminary hearing, the practice is not uniform throughout the state. The language contained in the current court rules is ambiguous and does not clearly obligate the court to appoint an attorney for an indigent respondent at the preliminary hearing. The language in the proposed court rule amendment clarifies this ambiguity; giving clear direction to the court of its obligation.

As the organization representing referees, who conduct many of the preliminary hearings throughout the state, RAM urges the Michigan Supreme Court to adopt the proposed amendment to MCR 3.915.

Thank you

Paul Jacokes, President RAM

Shelley R. Spivack, Vice-President RAM